

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF COMMERCE

Richard Sproatt,

Petitioner,

vs.

Minnesota Automobile Assigned Claims
Bureau,

Respondent.

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above matter came on for hearing before Administrative Law Judge Barbara L. Neilson on November 22, 2000, at 9:30 a.m. at the Office of Administrative Hearings, Suite 1700, 100 Washington Avenue South, in the City of Minneapolis, Minnesota. The record in this matter closed at the conclusion of the hearing on November 22, 2000.

Loren Dorshow, Attorney at Law, Griffel & Dorshow, Chartered, 230 Wells Fargo Bank Building – Ridgedale, 1809 Plymouth Road South, Minnetonka, Minnesota 55305, appeared on behalf of the Petitioner, Richard Sproatt. Timothy J. Eiden, Attorney at Law, Hansen, Dordell, Bradt, Odlaug and Bradt, PLLP, Suite 250, 3900 Northwoods Drive, St. Paul, Minnesota 55112-6973, appeared on behalf of the Respondent, Minnesota Automobile Assigned Claims Bureau. Jennifer Kenney, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, attended the hearing on behalf of the Department of Commerce; however the Department did not participate as a party in this case.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact James C. Bernstein, Commissioner, Minnesota Department of Commerce, 133 East 7th Street, St. Paul, MN 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

Is the Petitioner disqualified from receiving benefits under the Minnesota Automobile Assigned Claims Plan because he “dwell[ed] and function[ed] together with the owner [of the vehicle] as a family,” within the meaning of Minn. Stat. § 65B.64, subd. 3?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Petitioner, Richard Sproatt, was injured in an accident that occurred on October 24, 1999. The Petitioner was a passenger in an uninsured 1996 Geo driven by Rebekka LaDoucer.

2. At the time of the accident, the 1996 Geo was registered to Ms. LaDoucer's boyfriend, Leslie Dean Olson. Mr. Olson was incarcerated at the time of the accident and will remain incarcerated until 2005.

3. Mr. Sproatt has never driven a car and does not have a driver's license. He dropped out of high school and received his G.E.D. in 1981. He has had no other formal education. Mr. Sproatt was not employed at the time of the accident. He has assisted Ms. LaDoucer in delivering newspapers recently, but has not held any other employment since the accident.

4. Mr. Sproatt has known Ms. LaDoucer for approximately twenty years. They are friends and are not romantically involved. In fact, Mr. Sproatt has a girlfriend who lives in North St. Paul. He has a separate set of friends with whom he socializes from time to time, apart from Ms. LaDoucer. At the time of the accident, he did not go out very often with Ms. LaDoucer and her child, but occasionally went out to eat with them.

5. At the time of the accident, Mr. Sproatt lived with Ms. LaDoucer in a house owned by Ms. LaDoucer's mother located at 310 Goodhue in St. Paul. Mr. Sproatt moved into the home in approximately June 1999 because Ms. LaDoucer needed help caring for her mother and the house. Ms. LaDoucer's mother eventually moved into a nursing home. Mr. Sproatt took care of the yard, helped clean the house, and took care of Ms. LaDoucer's daughter 2-3 days per week and often on weekends. He also shared responsibility for cooking meals and ate meals with Ms. LaDoucer and her daughter. Although Ms. LaDoucer did not pay him for his work, he was not required to pay rent. Ms. LaDoucer's brother, Michael Howland, also moved into the house around the time of the accident.

6. Just prior to moving into Ms. LaDoucer's home, Mr. Sproatt had lived with his mother. Mr. Sproatt had previously lived with Ms. LaDoucer and her mother and child for some period of time in approximately 1997.

7. Between approximately June and October of 1999, Ms. LaDoucer used Mr. Olson's Geo from time to time. That was the only vehicle available for her to use.

Ms. LaDoucer occasionally gave Mr. Sproatt a ride in the Geo when he needed to go somewhere. After the accident, the Geo was junked by the impound lot.

8. Before Mr. Olson was incarcerated, he lived in the Cambridge area. The GEO was kept at Ms. LaDoucer's home in St. Paul when she was in St. Paul, and in Cambridge when she was there.

9. At the time of the hearing, Mr. Sproatt, Ms. LaDoucer, and Ms. LaDoucer's son lived in the home located at 310 Goodhue. Ms. LaDoucer's daughter no longer lives there.

10. On January 4, 2000, the Petitioner applied for basic economic loss benefits through the assigned claims plan administered by the Respondent, the Minnesota Automobile Assigned Claims Bureau, pursuant to Minn. Stat. § 65B.63.

11. On March 6, 2000, State Farm Insurance Company, the servicing carrier of the Respondent, denied benefits to the Petitioner based on its finding that the Petitioner resided with Ms. LaDoucer, who it concluded was the constructive owner of the vehicle.

12. On March 8, 1999, the Petitioner appealed State Farm Insurance Company's denial to Respondent's governing board.

13. On March 27, 2000, the Respondent's governing board upheld the denial of benefits to the Petitioner.

14. On April 17, 2000, the Petitioner appealed the Respondent's decision to the Commissioner, pursuant to Minn. Stat. § 65B.63, subd. 1.

15. The Notice of and Order for Hearing and Notice of Prehearing Conference initiating this contested case proceeding was served on counsel for the Petitioner on July 31, 2000.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of Commerce and the Administrative Law Judge have jurisdiction in this matter.^[1]

2. The Department of Commerce gave proper notice of the hearing and has complied with all relevant substantive and procedural requirements of statute and rule.

3. Persons injured in an automobile accident by an uninsured motorist are entitled to economic loss benefits under Minnesota law.^[2]

4. Under Minn. Stat. § 65B.64, "[p]ersons, whether or not related by blood or marriage, who dwell and function together with the owner as a family, other than

adults who have been adjudicated as incompetent and minor children, shall also be disqualified from benefits through the assigned claims plan.”

5. The Respondent bears the burden to show by a preponderance of the evidence that the Petitioner is disqualified from receiving benefits because he dwells and functions together as a family with the owner of an uninsured vehicle, since the Respondent’s assertion is in the nature of an affirmative defense.

6. The Petitioner was not the owner of a private passenger motor vehicle nor did he dwell and function together as a family with Ms. LaDoucer at the time of the accident.

7. The Petitioner is entitled to economic loss benefits through the Assigned Claims Plan for any injuries he incurred on October 24, 1999.

8. These Conclusions are reached for the reasons discussed in the attached Memorandum, which is hereby incorporated herein by reference.

9. Any Findings of Fact that are more appropriately described as Conclusions are adopted as Conclusions.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That the decision of the Assigned Claim Bureau to deny economic loss benefits to the Petitioner on the grounds that he dwells and functions together with the owner of an uninsured vehicle as a family be REVERSED.

Dated: December 21, 2000

S/ George A. Beck

BARBARA L. NEILSON
Administrative Law Judge

Reported: Tape-recorded; No Transcript Prepared.

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

Two issues are presented in this contested case proceeding: (1) whether the Petitioner dwelled and functioned with Rebekka LaDoucer as a family, within the

meaning of Minn. Stat. § 65B.64, subd. 3; and, if so, (2) whether Ms. LaDoucer is the constructive owner of the 1996 Geo involved in the accident, and the Petitioner therefore is disqualified from receiving benefits through the assigned claims plan.

The Respondent contends that Ms. LaDoucer, her child, and Mr. Sproatt did, in fact, dwell and function together as a family at the time of the accident, within the meaning of the statute. In this regard, the Respondent points out that Mr. Sproatt lived with Ms. LaDoucer and her child in a household setting and that Mr. Sproatt cut the grass, did the dishes, prepared and ate meals with the LaDoucercs, and cared for Ms. LaDoucer's child. Based upon these circumstances, the Respondent argues that Mr. Sproatt was very involved in the life of Ms. LaDoucer and her child and there was a great deal of interaction between Mr. Sproatt and the members of the LaDoucer family. The Respondent contends that there is no requirement that there be a romantic involvement between individuals in order to find that they are living together as a family. The Respondent asserts that the relationship between Ms. LaDoucer and Mr. Sproatt was unlike the typical lessor-lessee relationship, since Mr. Sproatt did not pay rent, was given rides by Ms. LaDoucer, and helped Ms. LaDoucer with child care and household tasks. The Respondent thus claims that Mr. Sproatt lived like a family member with Ms. LaDoucer. In addition, the Respondent contends that the fact that the title to the Geo was held by Leslie Olson is not determinative and argues that Ms. LaDoucer was the constructive owner of the vehicle because her use was prolonged, extensive and exclusive during at least the four months that Mr. Sproatt lived with her prior to the accident in 1999. The Respondent emphasizes that Ms. LaDoucer also used the vehicle before Mr. Olson's incarceration, and it was the only vehicle available to her.

In response, the Petitioner argues that Mr. Sproatt and Ms. LaDoucer were simply platonic friends who lived together as roommates, similar to the situation involved in *Bartholet v. Berkness*,^[3] and did not function together as a family. Moreover, the Petitioner contends that Mr. Sproatt, who has never driven a vehicle and does not have a driver's license, is a prime example of the type of person who should be covered by the assigned claims plan. The Petitioner argues that Ms. LaDoucer does not own title to the vehicle, nor is she "entitled to the use and possession" of the vehicle "subject to a security interest held by another person," and that she thus is not the "owner" of the vehicle as defined in Minn. Stat. § 65B.43. The Petitioner also contends that Ms. LaDoucer was not the constructive owner of the Geo but was simply an agent who enjoyed the use of the vehicle with the permission of Mr. Olson, relying upon Minn. Stat. § 170.54^[4] and *Harris v. American Family Mutual Insurance Company*.^[5] The Petitioner asserts that the term "constructive owner" is not defined in statute, and it would be unfair to disqualify someone from benefits on that basis. The Petitioner thus urges that Mr. Sproatt be permitted to receive the economic loss benefits that he deserves under the Minnesota Assigned Claims Plan.

In *Kruse v. Minnesota Automobile Assigned Claims Bureau*,^[6] the Court of Appeals considered whether claimants in two consolidated cases who were injured in accidents in uninsured vehicle owned by their fiancé and ex-husband, respectively, were disqualified from receiving benefits because they were living with them and thus were members of their households. The Court ruled that the claimants were not

members of the households of the owners of the uninsured vehicles because they were not related by blood or marriage to the owners, and accordingly determined that they were not barred from receiving benefits under the assigned claims plan. Minn. Stat. § 65B.64, subd. 3, specified at that time that “[m]embers of the owner’s household other than minor children shall also be disqualified from benefits through the assigned claims plan.” In response to the ruling in *Kruse*, section 65B.64 was amended in 1989 to specify that “[p]ersons, whether or not related by blood or marriage, who dwell and function together with the owner as a family, other than adults who have been adjudicated as incompetent and minor children, shall also be disqualified from benefits through the assigned claims plan.” The amendment thus makes it clear that individuals do not need to be related by blood or marriage to the owner of an insured vehicle to be disqualified from benefits under the assigned claims plan. The amendment does, however, specify that the claimant and the owner of the vehicle must both “dwell and function together . . . as a family.” Thus, it is not automatically the case that people who live in the same home are functioning as a family.

The statute does not define what is meant by “function[ing] together . . . as a family.” It is evident that this phrase should be “construed . . . according to [its] common and approved usage; but technical words and phrases and such others as have acquired a special meaning . . . are construed according to such special meaning in their definition.”^[7] For insurance purposes, the phrase “member of the family” is generally considered to be synonymous with “member of the household.”^[8] For example, in *Houser v. Dan Dugan Transport Co.*, the Minnesota Supreme Court stated:

{T}his court has defined “member of the family” to include all persons that the head of the household has taken into his/her home to share such comforts as the home may provide and toward whom the head of the household has assumed an attitude of parent, guardian or controller, particularly when there exists a blood or legal relationship. [Citations omitted.] Other cases, usually arising in the automobile insurance context, * * * generally define the phrase “member of the family” as including those who dwell together under the same roof in a close and intimate family relationship under which the head of the household assumes the attitude of parent. Keeping in mind that words and phrases are to be construed according to their common and approved usage (Minn. Stat. § 645.08(1) (1982)), it is clear that in defining “member of the family” we have adopted in those insurance cases a definition that includes within its scope those who dwell together under the same roof in a close and intimate relationship.^[9]

In construing the phrase it is, of course, necessary to take into account that the statute has made it clear in the assigned claims context that persons need not be related by blood or marriage to be deemed to be dwelling and functioning together as a family.

Mr. Sproatt initially moved into the home owned by Ms. LaDoucer’s mother in 1997 and lived there for an unspecified length of time. He then moved out and lived with his own mother for a time. He returned to Ms. LaDoucer’s in approximately April 1999 at Ms. LaDoucer’s request to assist in caring for her mother, who was ill, and help

with the house. It is undisputed that Mr. Sproatt and Ms. LaDoucer have never been involved in a romantic relationship and Mr. Sproatt presently has a girlfriend. While their relationship at the time of the accident was clearly closer than that involved in a typical landlord-tenant situation—Mr. Sproatt took care of Ms. LaDoucer's daughter 2-3 days per week and often on weekends, shared responsibility for cooking, and assisted with household maintenance—the Administrative Law Judge concludes that the Respondent has not shown based upon the facts established in this record that Mr. Sproatt and Ms. LaDoucer lived together in a "close and intimate relationship" and thus functioned together as a family within the meaning of Minn. Stat. § 65B.64. Rather, it appears that they are simply longtime friends who live together for mutual convenience, with Mr. Sproatt working around the house and providing childcare duties in lieu of paying rent. Ms. LaDoucer's brother also resides in the home and comes and goes as he pleases, while Ms. LaDoucer and Mr. Sproatt move in separate social circles and function independently. The mere fact that Mr. Sproatt performs household or childcare duties does not, in the view of the Judge, warrant the conclusion that he is functioning as a family member.

For these reasons, the Judge finds that the living arrangement involved in the present case is more similar to that involved in the *Bartholet* case than it is to a close and intimate family relationship. In the *Bartholet* case, the Minnesota Supreme Court considered whether two men residing together were properly considered members of the same "household," which the Court said was synonymous with the term "family." The two men were not involved in a romantic relationship but were living together to share the cost of renting an apartment. Each had their own private bedroom, but they shared a common living space. Each had "his own friends and each move[d] in his own social circle." The Supreme Court held that "we are unable to say that two bachelors, sharing the same living quarters under conditions such as exist here, are members of the same household. The most that can be said is that they were unrelated friends who resided in the same dwelling."^[10] Because the Court's decision in *Bartholet* did not rely primarily on the fact that the two men were not related as the basis for its determination that they were not members of the same household, its rationale would appear to have continued vitality even after the amendment to Minn. Stat. § 65B.64. Even though there is more interaction between Mr. Sproatt and Ms. LaDoucer than there apparently was between the two roommates in *Bartholet*, the Administrative Law Judge concludes that their living situation is closer to a roommate situation than the close and intimate family situation contemplated by the statute. The decisions of courts in other jurisdictions provide further support for this conclusion.^[11]

The Supreme Court has recognized that the assigned claims plan is designed to "provide[] for the payment of basic economic benefits to certain injured persons—primarily those who cannot procure their own protection because neither they nor any relative residing in the same household holds an automobile or because of their youth. Expressly excluded, however, from entitlement under the assigned claims plan are those who are in a position to secure their own protection"^[12] The evidence at the hearing established that Mr. Sproatt, who has a very limited education, has never had a driver's license or driven a car. It is consistent with the purposes of the Act to find that Mr. Sproatt is eligible to pursue a claim under the assigned claims plan.

The Administrative Law Judge thus concludes that the Respondent has not borne its burden of proving that Mr. Sproatt is disqualified from receiving benefits because he dwelled and functioned together with Ms. LaDoucer as a family, and recommends that the decision of the Assigned Claims Bureau to deny economic loss benefits to the Petitioner on alleged disqualification grounds be reversed. It is unnecessary to reach the further issue of whether Ms. LaDoucer was the constructive owner of the uninsured vehicle involved in the accident. There was very little evidence presented at the hearing concerning this issue. For example, because Ms. LaDoucer was not called to testify at the hearing, there was no evidence concerning the length of time she used the vehicle, the frequency of such use, the length of Mr. Olson's incarceration, or any agreement between Ms. LaDoucer and Mr. Olson concerning the vehicle. Should the Commissioner disagree with the recommendation reached on the family relationship issue, the Administrative Law Judge recommends that the matter be remanded for further factual development of the constructive ownership issue.

B.L.N.

^[1] Minn. Stat. §§14.55, 64B.63.

^[2] Minn. Stat. § 65B.44.

^[3] 189 N.W.2d 410, 411-12 (Minn. 1971).

^[4] That statute states that, "[w]hensoever any motor vehicle shall be operated . . . by any person, other than the owner, with the consent of the owner, express or implied, the operator thereof shall in case of accident, be deemed the agent of the owner of such motor vehicle in the operation thereof."

^[5] 480 N.W.2d 690 (Minn. App. 1992).

^[6] 371 N.W. 2d 602 (Minn. App. 1985).

^[7] Minn. Stat. § 645.08(1).

^[8] Kruse, 371 N.W.2d at 604, citing *Houser v. Dan Dugan Transport Co.*, 361 N.W.2d 62 (Minn. 1985).

^[9] *Houser*, 361 N.W.2d at 65-66 (citations omitted), quoted with approval in *Kruse*, 371 N.W.2d at 604.

^[10] 189 N.W.2d at 412.

^[11] *Accord Shivvers v. American Family Insurance Co.*, 256 Neb. 159, 589 N.W.2d 129 (1999) (passenger and driver were not members of the same "household" and thus were not "household residents" within the meaning of exclusions in insurance policies, even though they resided together for financial convenience and spent time together as part of their religious work); *Permanent General Assurance Corp. v. Woods*, 1993 WL 157665 (Tenn. Ct. App. 1993) (unrelated passenger and driver who lived together as roommates, paid their own bills, were economically independent, and each lived their own lives were not residents of the same household within an insurance exclusion); *Universal Underwriters Insurance Co. v. Evans*, 565 So.2d 741 (Fla. App. 1990) (passenger and driver were not members of the same household under an insurance policy even though they shared a house where there was no evidence of any other relationship between the two and no evidence of any intent to form a social unit; "household" does not encompass landlord-tenant or simple roommate arrangements).

^[12] *Michelson v. American Family Mutual Insurance Co.*, 329 N.W.2d 814, 818 (Minn. 1989).